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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,476	09/27/2001	Michael Mendez	40977	5080

7590 12/15/2004  
Steven B. Kelber, Esq.  
Piper Rudnick, LLP  
1200 19th Street N.W.  
Washington, DC 20036

EXAMINER

AKHAVAN, RAMIN

ART UNIT PAPER NUMBER

1636

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



# UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant's 12/13/04 24  
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 09/30/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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**EXAMINER****R. AKHAVAN****ART UNIT****PAPER**

1636

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**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents****Notice of Non-Responsive Amendment**

The reply filed on 09/30/2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The claim as presented does not indicate that the term "cloning" is newly added (i.e. the term is not underlined), thus the amendment is technically incorrect and deemed non-responsive. In addition, the amendment does not address the grounds of rejection as set forth in the previous Office Action. In said Action, a rejection of claim 7 was made under 35 U.S.C. 112, second paragraph, indicating the recitation of the term, "a vector system" conferred vagueness and ambiguity, making indeterminable the claims' metes and bounds. Further, it was explained that the term, "system" connotes that additional steps, components or elements are required. As the claim is drawn to a composition, there is a internal discordance in the claim. Applicants have amended claim 7 to substitute the term "vector" with the term "cloning" but retaining the term "system" and indicate that this substitution obviates the stated ground of rejection. However, insertion of "cloning" actually indicates even more so that there are additional steps or elements that are required thus conferring ambiguity with respect to the composition claim. As such, Applicant's amendment is deemed unresponsive. See 37 CFR 1.111.

Applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ray Akhavan whose telephone number is 571-272-0766. The examiner can normally be reached between 8:30-5:00, Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, PhD, can be reached on 571-272-0781. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ray Akhavan/AU 1636

PTO-90C (Rev.04-03)

  
**GERRY LEFFERS**  
**PRIMARY EXAMINER**